

IN RE: PETITION FOR ZONING VARIANCE
OF/S Nearbrook Lane, 900' SW
of the c/l of Northwind Road
(9941 Nearbrook Lane)
11th Election District
5th Councilmanic District
John S. Curreri, Sr., et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 91-14-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a side yard setback of 0 feet in lieu of the required minimum of 10 feet and to amend the First Amended Final Development Plan of the "Village of Nearbrook" for a proposed addition in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. There were no Protestants. Testimony indicated that the subject property, known as 9941 Nearbrook Lane, consists of .18 acres more or less zoned D.R. 3.5 and is improved with a single family dwelling which has been the Petitioners' residence for 6 years. Petitioners are desirous of constructing a one car garage on the west side of the existing dwelling to provide protection for an antique car Petitioners own. Testimony indicated the proposed garage cannot be placed on the east side of the property where there is more room due to an existing storm drain right-of-way easement. Further testimony indicated the rear yard contains an inground swimming pool and surrounding deck leaving no room for a garage to the rear of the subject property. Petitioners testified the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and that to deny the relief requested will create practical difficulty for them. Testimony indicated Petitioners have discussed their plans with the

adjoining property owners on the affected side of the variance who have no objections to their plans.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Deputy Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should, therefore, be granted, as hereinafter modified. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 11th day of September, 1990 that the Petition for Zoning Variance to permit a side yard setback of 6 inches in lieu of the required minimum of 10 feet and to amend the First Amended Final Development Plan of the "Village of Nearbrook" for a proposed addition in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) The relief granted herein is for a 6-inch side yard setback variance in lieu of the requested 0-foot setback. Petitioners must therefore submit a revised site plan incorporating the relief granted herein prior to the issuance of any building permits.

3) Petitioners shall not allow or cause the proposed garage to be converted to a second dwelling unit and/or apartments. The garage shall contain no living or sleeping quarters, and no kitchen or bathroom facilities.

4) Petitioners shall construct the proposed garage in accordance with all building and fire code requirements.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353

J. Robert Haines
Zoning Commissioner

September 11, 1990

Mr. & Mrs. John S. Curreri
9941 Nearbrook Lane
Baltimore, Maryland 21234

RE: PETITION FOR ZONING VARIANCE
SE/S Nearbrook Lane, 900' SW of the c/l of Northwind Road
(9941 Nearbrook Lane)
11th Election District - 5th Councilmanic District
John S. Curreri, Sr., et ux - Petitioners
Case No. 91-14-A

Dear Mr. & Mrs. Curreri:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

cc: People's Counsel

File

ORDER RECORDED & INDEXED
Date 9/14/90
By Beth Johnston

ORDER RECORDED & INDEXED
Date 9/14/90
By Beth Johnston

ORDER RECORDED & INDEXED
Date 9/14/90
By Beth Johnston

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-14-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B. (1801.2.C.4. 1979) to permit a zero (0) foot side yard setback in lieu of the minimum 10 ft. and to amend the First Amended Final Development Plan of "Village of Nearbrook"

of the Zoning Regulations of Baltimore County in the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

UNDUE HARDSHIP DUE TO INABILITY TO MAKE REASONABLE USE OF AVAILABLE SIDE YARD PROPERTY & DIFFICULTIES ARE RESULTING TO OUR PROPERTY DUE TO UNDERGROUND STORM DRAIN SYSTEM IN CONTRAST WITH OTHER PROPERTIES IN DISTRICT & THIS HARDSHIP WAS NOT THE RESULT OF OUR OWN ACTIONS BECAUSE IT WAS ALREADY EXISTING - SO WE ARE REQUESTING TO UTILIZE OPPOSITE SIDE YARD TO CONSTRUCT SMALL GARAGE

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm under the penalties of perjury that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: John S. Curreri, Sr.
(Type or Print Name)
Signature: John S. Curreri, Sr.
Address: 9941 Nearbrook Lane
City and State: Baltimore, MD

Attorney for Petitioner: Beth Johnston
(Type or Print Name)
Address: 1111 North Street
City and State: Baltimore, MD

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Attorney's Telephone No.: 274-1111

ORDERED By The Zoning Commissioner of Baltimore County, this 27th day of September, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 11th day of September, 1990, at 9:30 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County

ORDER RECORDED & INDEXED
Date 9/14/90
By Beth Johnston

ZONING DESCRIPTION 91-14-A

Beginning at a point on the south side of Nearbrook Lane which is 80 feet wide at the distance of 900' south of the centerline of the nearest improved intersecting street Northwind Road which is 70' wide. Being Lot # 106, "As recorded in Deed Liber 6687 Page 671" as shown on the Plat entitled "2nd Amended Plat 2, Resubdivision of Storm Water Management Area of The Village of Nearbrook as recorded in Baltimore County Plat Book EHK, Jr. # 50, folio # 94 containing 7420 square feet. Also know as 9941 and located in the 11th Election District.

434

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 9th
Date of Posting: 9/24/90
Posted for: Variance
Location of property: 9941 Nearbrook Lane, 900' SW of Northwind Rd.
Location of Sign: 9941 Nearbrook Lane, across 15' F. roadway on fire property of Petitioner
Remarks: [Signature]
Posted by: [Signature]
Number of Signs: 1

91-14-A

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21284

receipt

Date: 9-11-90
PUBLIC HEARING FEES: \$109.46
110 ZONING VARIANCE (IFL)
LAST NAME OF OWNER: CURRERI
B 8155*****3560:8 E07:F
Please make checks payable to: Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD. 8/13, 1990

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 2 successive weeks, the first publication appearing on 8/8, 1990.

THE JEFFERSONIAN,

S. Zabe Olson
Publisher

P.O. 106246
\$ 84.49

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21284

receipt

Date: 9-11-90
91-14.
119100194
John S. Curreri
P+ A \$ 109.46
04A04800701CHR
\$109.46
Please Make Checks Payable To: Baltimore County

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353
J. Robert Haines
Zoning Commissioner

DATE 8-30-90



Dennis F. Rasmussen
County Executive

Mr. & Mrs. John S. Curreri, Sr.
9941 Nearbrook Lane
Baltimore, Maryland 21234

Re: Petition for Zoning Variance
CASE NUMBER: 91-14-A
SE/S of Nearbrook Lane, 900' SW c/l of Northwind Road
9941 Nearbrook Lane
11th Election District - 5th Councilmanic
Petitioner(s): John S. Curreri, Sr.
HEARING: TUESDAY, SEPTEMBER 11, 1990 at 9:30 a.m.

Dear Petitioners:

Please be advised that \$ 109.46 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

JRH:gs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353
J. Robert Haines
Zoning Commissioner

July 13, 1990



Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21284 as follows:

Petition for Zoning Variance
CASE NUMBER: 91-14-A
SE/S of Nearbrook Lane, 900' SW c/l of Northwind Road
9941 Nearbrook Lane
11th Election District - 5th Councilmanic
Petitioner(s): John S. Curreri, Sr.
HEARING: TUESDAY, SEPTEMBER 11, 1990 at 9:30 a.m.

Variance to permit a zero (0) foot side yard setback in lieu of the minimum 10 ft. and to amend the First Amended Final Development Plan of "Village of Nearbrook".

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Mr. & Mrs. Curreri

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353
J. Robert Haines
Zoning Commissioner

September 6, 1990



Dennis F. Rasmussen
County Executive

Mr. & Mrs. John S. Curreri, Sr.
9941 Nearbrook Lane
Baltimore, MD 21234

RE: Item No. 434, Case No. 91-14-A
Petitioner: John S. Curreri, et ux
Petition for Zoning Variance

Dear Mr. & Mrs. Curreri:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21284
(301) 887-3353
J. Robert Haines
Zoning Commissioner



Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this 27th day of June, 1990.

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Received By:

James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: John S. Curreri, et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines
Zoning Commissioner
DATE: June 21, 1990

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: John S. Curreri, Item No. 434

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 406
Towson, Maryland 21284
(301) 887-3554

June 27, 1990



Dennis F. Rasmussen
County Executive

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 221, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, and 438.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF/lvw

RECEIVED
JUL 3 1990

ZONING OFFICE

Baltimore County
Fire Department
700 East Joppa Road, Suite 901
Towson, Maryland 21284-5500
(301) 887-4500
Paul H. Reincke
Chief

JUNE 27, 1990



Dennis F. Rasmussen
County Executive

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: JOHN S. CURRERI
Location: 89941 NEARBROOK LANE
Item No.: 434 Zoning Agenda: JUNE 26, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy. CHAPTER 22

REVIEWER: Pat Keller, 6-27-90 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/REK

JUL 05 1990

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

June 22, 1990

TO: J. ROBERT HAINES, ZONING COMMISSIONER, DEPARTMENT ZONING

FROM: CHARLES E. BURNHAM, PLANS REVIEW CHIEF, DEPARTMENT OF PERMITS & LICENSES CEB

SUBJECT: ZONING ITEM #: 434
PROPERTY OWNER: JOHN S. CURRERI, Sr., et ux
LOCATION: SE/S of Nearbrook La., 900' SW centerline of Northwind Rd. (#9941 Nearbrook La)
ELECTION DISTRICT: 11th
COUNCILMANIC DISTRICT: 5th

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

- () PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.01.07, MARYLAND BUILDING CODE FOR THE HANDICAPPED.
- () PARKING LOCATION () RAMPS (degree slope)
- () NUMBER PARKING SPACES () CURB CUTS
- () BUILDING ACCESS () SIGNAGE
- (X) PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.
- (X) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.
- () A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.
- () STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS, SECTION 516.0 COUNCIL BILL #158-88 (BALTIMORE COUNTY BUILDING CODE).
- (X) OTHER - A MINIMUM OF 3'-0" FIRE SEPARATION FROM INTERIOR LOT LINES OR 1 hr. RATED WALL ASSEMBLY WITHOUT ANY OPENINGS, SEE SECTION 906.0 BLDG CODE OR ONE & TWO FAMILY CODE, SECTION 2-203.1.
PERMITS MAY BE APPLIED FOR # ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

CHECK ITEM APPLICABLE TO THIS PLAN

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: July 6, 1990
FROM: Robert W. Bowling, P.E.
RE: Zoning Advisory Committee Meeting
for June 26, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 221, 428, 429, 430, 431, 432, 433, 435, 436, 437, and 438

For Item 427, the previous County Review Group comments still apply.

Robert W. Bowling
ROBERT W. BOWLING, P.E. Chief
Developer Engineering Division

RWB:s

